

Mr. SMITH of Texas. Mr. Speaker, first I would like to thank the chairman of the committee for yielding me time. I would also like to thank the gentleman from Massachusetts (Mr. FRANK) for his earlier generous comments.

Beginning in the mid-1950s, a number of private colleges and universities agreed to award financial aid solely on the basis of demonstrated need. These schools also agreed to use common criteria to assess each student's financial need and to give the same financial aid award to students admitted to more than one member of the group.

In 1989, the Antitrust Division of the Department of Justice brought suit against nine of the colleges that engage in this practice. After extensive litigation, the parties reached a settlement in 1993.

In 1994 and again in 1997, Congress passed a temporary exemption from the antitrust laws that codified that settlement. It allowed agreements to provide aid on the basis of need only, use common criteria, use a common financial aid application form, and allow the exchange of the student's financial information through a third party. It also prohibited agreements on awards to specific students. The exemption expired, as the chairman just noted a minute ago, on September 30, 2001.

To my knowledge, there are no complaints about the exemption. H.R. 768 would extend the exemption passed in 1994 and 1997 for 7 more years.

The need-based financial aid system serves goals that the antitrust laws do not adequately address, namely, making financial aid available to the broadest number of students solely on the basis of demonstrated need. No student who is otherwise qualified should be denied the opportunity to go to a private, selective university because of the limited financial means of his or her family. H.R. 768 will help protect need-based aid and need-blind admissions.

Last April we approved a permanent extension by an overwhelming margin of 414 to zero. However, the Senate has approved only a 7-year extension. They also call for the General Accounting Office to study the effects of the exemption and to submit a report in 5 years. If the GAO chooses to examine a comparison group of schools for the study, participation in the group would be voluntary. It is this version that we vote upon today.

Mr. Speaker, I still believe that a permanent exemption from the antitrust laws is justified and warranted. However, in the interest of time, the House should accept the changes made by the Senate, and I urge my colleagues to support this bill.

Mr. FRANK. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from

Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate amendments to the bill, H.R. 768.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## FINANCIAL SERVICES ANTIFRAUD NETWORK ACT OF 2001

Mr. BACHUS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1408) to safeguard the public from fraud in the financial services industry, to streamline and facilitate the antifraud information-sharing efforts of Federal and State regulators, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1408

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Financial Services Antifraud Network Act of 2001".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purposes.

#### TITLE I—ANTIFRAUD NETWORK

##### Subtitle A—Direction to Financial Regulators

Sec. 100. Creation and operation of the network.

##### Subtitle B—Potential Establishment of Antifraud Subcommittee

Sec. 101. Establishment.

Sec. 102. Purposes of the Subcommittee.

Sec. 103. Chairperson; term of chairperson; meetings; officers and staff.

Sec. 104. Nonagency status.

Sec. 105. Powers of the Subcommittee.

Sec. 106. Agreement on cost structure.

##### Subtitle C—Regulatory Provisions

Sec. 111. Agency supervisory privilege.

Sec. 112. Confidentiality of information.

Sec. 113. Liability provisions.

Sec. 114. Authorization for identification and criminal background check.

Sec. 115. Definitions.

Sec. 116. Technical and conforming amendments to other acts.

Sec. 117. Audit of State insurance regulators.

##### Subtitle D—Anti-Terrorism

Sec. 121. Preventing international terrorism.

#### TITLE II—SECURITIES INDUSTRY COORDINATION

##### Subtitle A—Disciplinary Information

Sec. 201. Investment Advisers Act of 1940.

Sec. 202. Securities Exchange Act of 1934.

Subtitle B—Preventing Migration of Rogue Financial Professionals to the Securities Industry

Sec. 211. Securities Exchange Act of 1934.

Sec. 212. Investment Advisers Act of 1940.

#### SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to safeguard the public from fraud in the financial services industry;

(2) to streamline the antifraud coordination efforts of Federal and State regulators and prevent failure to communicate essential information;

(3) to reduce duplicative information requests and other inefficiencies of financial services regulation;

(4) to assist financial regulators in detecting patterns of fraud, particularly patterns that only become apparent when viewed across the full spectrum of the financial services industry; and

(5) to take advantage of Internet technology and other advanced data-sharing technology to modernize the fight against fraud in all of its evolving manifestations and permutations.

#### TITLE I—ANTIFRAUD NETWORK

##### Subtitle A—Direction to Financial Regulators

#### SEC. 100. CREATION AND OPERATION OF THE NETWORK.

(a) SHARING OF PUBLIC INFORMATION.—The financial regulators shall, to the extent practicable and appropriate and in consultation with other relevant and appropriate agencies and parties—

(1) develop procedures to provide for a network for the sharing of antifraud information; and

(2) coordinate to further improve upon the antifraud efforts of the participants in the network as such participants deem appropriate over time.

(b) MINIMUM REQUIREMENTS.—The procedures described in subsection (a) shall—

(1) provide for the sharing of public final disciplinary and formal enforcement actions taken by the financial regulators that are accessible electronically relating to the conduct of persons engaged in the business of conducting financial activities that is fraudulent, dishonest, or involves a breach of trust or relates to the failure to register with the appropriate financial regulator as required by law;

(2) include a plan for considering the sharing among the participants of other relevant and useful antifraud information relating to companies and other persons engaged in conducting financial activities, to the extent practicable and appropriate when adequate privacy, confidentiality, and security safeguards governing access to, and the use of, such information have been developed that—

(A) is accessible by the public; or

(B) consists of information, that does not include personally identifiable information on consumers, on—

(i) licenses and applications, financial affiliations and name-relationships, aggregate trend data, appraisals, or reports filed by a regulated entity with a participant; or

(ii) similar information generated by or for a participant if—

(I) such information is being shared for the purpose of verifying an application or other report filed by a regulated entity; and

(II) the participant determines such information is factual and substantiated; and

(3) provide that, if a financial regulator takes an adverse action against a person engaged in the business of conducting financial activities on the basis of information described in paragraph (1) or (2) that was received from another participant through the network, the regulator shall—

(A) notify the person of the identity of the participant from whom such information was received;

(B) provide the person with a specific and detailed description of the information that was received from the other participant through the network and would be relied on in taking the adverse action; and

(C) notify the person of the right to a reasonable opportunity to respond to such information.

**(C) PROVISIONS RELATING TO REQUIREMENTS.—**

(1) **TIME OF NOTICE.**—The notice to any person, and the opportunity to respond, under subsection (b)(3) shall be provided to the person a reasonable period of time before any final action against the person which is based on information referred to in such paragraph is completed, unless the financial regulator determines that such advance notice and opportunity to respond is impracticable or inappropriate, in which case the notice and opportunity to respond shall be provided at the time of such final action.

(2) **VERIFICATION OR SUBSTANTIATION OF INFORMATION.**—With respect to subsection (b)(3), a delay in the consideration of a license, application, report, or other request for the purpose of verifying or substantiating information relating to such license, application, report, or other request shall not be treated as an adverse action if the verification or substantiation of such information is completed within a reasonable time.

**(d) IMPLEMENTATION.—**

(1) **SUBMISSION OF PLAN.**—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Federal financial regulators shall submit to Congress a plan detailing how the financial regulators (and any association representing financial regulators) expect to meet the requirements of subsections (a) and (b).

(2) **DEADLINE FOR IMPLEMENTATION.**—Before the end of the 2-year period beginning on the date of the enactment of this Act, the financial regulators shall establish the network described in subsections (a) and (b).

(e) **FINANCIAL REGULATORS DEFINED.**—For the purposes of this section, the term “financial regulators” means the financial regulators described in subparagraphs (A) through (Q) of section 115(3).

**(f) DETERMINATION OF IMPLEMENTATION OF SUBTITLE B.—**

(1) **IN GENERAL.**—The provisions of subtitle B shall take effect only if the Secretary of the Treasury, or a designee of the Secretary, before the end of the 30-day period beginning at the end of the period referred to in—

(A) subsection (d)(1), does not determine that the Federal financial regulators have submitted a plan which substantially meets the requirements of such subsection; or

(B) subsection (d)(2), does not determine that the financial regulators have established a network that substantially complies with the requirements of subsections (a) and (b).

(2) **SCOPE OF APPLICATION.**—This subtitle shall cease to apply as of the date subtitle B takes effect.

**(g) USE OF CENTRALIZED DATABASES.—**

(1) **IN GENERAL.**—A financial regulator shall be deemed to have met the requirements of subsection (b)(1) if—

(A) the participants have access to a centralized database that contains information on public final disciplinary or formal enforcement actions similar to that described in such subsection; or

(B) the financial regulator makes the information described in such subsection available to the public over the Internet.

(2) **STATE SUPERVISORS.**—It is the sense of the Congress that the National Association of Insurance Commissioners, the Conference of State Bank Supervisors, the American Council of State Savings Supervisors, the National Association of State Credit Union Supervisors, and the North American Securities Administrators Association should develop model guidelines for regulators in their respective regulated financial indus-

tries, where appropriate, to promote uniform standards for sharing information with the network under this section.

**(h) FINANCIAL REGULATOR CONTROL OF ACCESS.—**

(1) **IN GENERAL.**—Except as provided in paragraph (4), each participant that allows access to its databases or information by other participants through the network may establish parameters for controlling or limiting such access, including the regulation of—

(A) the type or category of information that may be accessed by other participants and the extent to which any such type or category of information may be accessed;

(B) the participants that may have access to the database or any specific type or category of information in the database (whether for reasons of cost reimbursement, data security, efficiency, or otherwise); and

(C) the disclosure by any other participant of any type or category of information that may be accessed by the participant.

(2) **PROCEDURES.**—A participant may establish the parameters described in paragraph (1) by regulation, order, or guideline or on a case-by-case basis.

**(3) DISCLAIMER.—**

(A) **IN GENERAL.**—Each participant shall ensure that any transfer of information through the network under this section, other than information described in subsection (b)(1), from such participant to another participant is subject to a disclaimer that the information accessed may be unsubstantiated and may not be relied on as the basis for denying any application or license.

(B) **REGULATORY FLEXIBILITY.**—Each financial regulator may develop guidelines, as the regulator determines to be appropriate, governing the location, wording, and frequency of disclaimers under this paragraph and the manner in which any such disclaimer shall be made.

(4) **FINAL DISCIPLINARY AND FORMAL ENFORCEMENT ACTIONS NOT SUBJECT TO LIMITATION.**—This subsection, and standards or procedures adopted by any participant under this subsection, shall not apply with respect to information described in subsection (b)(1).

(5) **NO EFFECT ON PUBLIC OR COMPANY ACCESS.**—No provision of this section shall replace, supersede, or otherwise affect access to any databases maintained by any Federal or State regulator, or any entity representing any such regulator, which are accessible by the public or persons engaged in the business of conducting financial activities.

**(i) ELIGIBILITY REQUIREMENTS FOR STATE SECURITIES ADMINISTRATORS.—**

(1) **IN GENERAL.**—No State securities administrator shall be eligible to be a participant and access the network unless—

(A) such State securities administrator participates in a centralized database for broker-dealers, broker-dealer agents, investment advisers, and investment advisor representatives, registered or required to be registered, as designated by the North American Securities Administrators Association; and

(B) such State securities administrator requires the broker-dealer, broker-dealer agent, investment adviser, or investment advisor representative, currently registered or required to be registered, to file any application, amendment to an application, or a renewal of an application through the centralized registration database.

(2) **TIME DELAY FOR PARTICIPATION IN DATABASES.**—The provisions of paragraph (1) shall not become effective until 3 years after the date of enactment of this Act.

**(j) ELIGIBILITY REQUIREMENTS FOR STATE INSURANCE COMMISSIONERS.—**

(1) **PARTICIPATION IN DATABASES.**—No State insurance commissioner shall be eligible to

access the network unless such commissioner participates with other State insurance commissioners—

(A) in a centralized database addressing disciplinary or enforcement actions taken against persons engaged in the business of insurance, such as the Regulatory Information Retrieval System maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such System; and

(B) in centralized databases addressing, with respect to persons engaged in the business of insurance—

(i) corporate and other business affiliations or relationships, such as the Producer Database maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such Database; and

(ii) consumer complaints, such as the Complaints Database maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such Database.

(2) **TIME DELAY FOR PARTICIPATION IN DATABASES.**—The provisions of subparagraph (1)(B) of this section shall not become effective until 3 years after the date of enactment of this Act.

(3) **ACCREDITATION.**—No State insurance commissioner shall be eligible to access the network unless the State insurance department which such commissioner represents meets 1 of the following accreditation requirements at the time of access to the network:

(A) Is accredited by the National Association of Insurance Commissioners.

(B) Has an application for accredited status pending with the National Association of Insurance Commissioners.

(k) **STANDARDS.**—Each financial regulator shall consider developing guidelines on—

(1) how to denote which types of information are to receive different levels of confidentiality protection; and

(2) how entities or associations that act as agents for financial regulators should denote such agency status when acting in that capacity.

(l) **OTHER SHARING ARRANGEMENTS NOT AFFECTED.**—No provision of this section shall be construed as limiting or otherwise affecting the authority of a financial regulator to provide any person, including another participant, access to any information in accordance with any provision of law other than this Act.

**Subtitle B—Potential Establishment of Antifraud Subcommittee**

**SEC. 101. ESTABLISHMENT.**

(a) **IN GENERAL.**—Unless the determinations described in section 100(f) are made, after the applicable date described in such section there shall be established within the President's Working Group on Financial Markets (as established by Executive Order No. 12631) a subcommittee to be known as the “Antifraud Subcommittee” (hereafter in this title referred to as the “Subcommittee”) which shall consist of the following members:

(1) The Secretary of the Treasury, or a designee of the Secretary.

(2) The Chairman of the Securities and Exchange Commission or a designee of the Chairman.

(3) A State insurance commissioner designated by the National Association of Insurance Commissioners, or a designee of such commissioner.

(4) The Chairman of the Commodity Futures Trading Commission or a designee of such Chairman.

(5) A designee of the Chairman of the Federal Financial Institutions Examination Council.

(b) **FINANCIAL LIAISONS.**—The following shall serve as liaisons between the Subcommittee and the agencies represented by each such liaison:

(1) A representative of each Federal banking agency appointed by the head of each such agency.

(2) A representative of the National Credit Union Administration appointed by the National Credit Union Administration Board.

(3) A representative of the Farm Credit Administration, appointed by the Farm Credit Administration Board.

(4) A representative of the Federal Housing Finance Board, appointed by such Board.

(5) A representative of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development appointed by the Director of such Office.

(6) A representative of the Appraisal Subcommittee of the Financial Institutions Examination Council designated by the Chairperson of the Appraisal Subcommittee.

(7) A representative of State bank supervisors designated by the Conference of State Bank Supervisors.

(8) A representative of State savings association supervisors designated by the American Council of State Savings Supervisors.

(9) A representative of State credit union supervisors designated by the National Association of State Credit Union Supervisors.

(10) A representative of State securities administrators designated by the North American Securities Administrators Association.

(11) A representative of the National Association of Securities Dealers appointed by the National Association of Securities Dealers.

(12) A representative of the National Futures Association appointed by the National Futures Association.

(13) Any other financial liaison as the Subcommittee may provide to represent any other financial regulator or foreign financial regulator, including self-regulatory agencies or organizations that maintain databases on persons engaged in the business of conducting financial activities, designated in the manner provided by the Subcommittee.

(c) **OTHER LIAISONS.**—

(1) **LAW ENFORCEMENT LIAISONS.**—The following shall serve as liaisons between the Subcommittee and the agencies represented by each such liaison:

(A) A representative of the Department of Justice appointed by the Attorney General.

(B) A representative of the Federal Bureau of Investigation appointed by the Director of such Bureau.

(C) A representative of the United States Secret Service appointed by the Director of such Service.

(D) A representative of the Financial Crimes Enforcement Network (as established by the Secretary of the Treasury) appointed by the Secretary of the Treasury.

(2) **SUBCOMMITTEE APPOINTED LIAISONS.**—The Subcommittee may provide for any other liaison to represent any other regulator, including self-regulatory agencies or organizations that maintain databases on persons engaged in the business of conducting financial activities, designated in the manner provided by the Subcommittee.

(d) **VACANCY.**—If, for any reason, the position of any member or liaison to the Subcommittee is not filled within a reasonable period of time after being created or becoming vacant, the President shall appoint an individual to fill the position after consulting the agency or entity to be represented by such member or liaison, and to the extent possible, shall appoint such indi-

vidual from a list of possible representatives submitted by such agency or entity.

(e) **REORGANIZATION AUTHORITY.**—

(1) **IN GENERAL.**—If the President disbands or otherwise significantly modifies the Working Group referred to in subsection (a), the President shall provide for the continuation of the Subcommittee's coordination functions.

(2) **MEMBER AND LIAISON WITHDRAWAL.**—If the President materially alters the structure or duties of the Subcommittee, any member or liaison to the Subcommittee may withdraw from the Subcommittee.

#### **SEC. 102. PURPOSES OF THE SUBCOMMITTEE.**

(a) **IN GENERAL.**—The purposes of the Subcommittee are as follows:

(1) Coordinate access by the participants to antifraud databases of various regulators, by facilitating the establishment, maintenance, and use of a network of existing antifraud information maintained by such regulators with respect to persons engaged in the business of conducting financial activities.

(2) Coordinate access by each participant to such network in a manner that allows the participant to review, at a minimal cost, existing information in the databases of other regulators, as a part of licensure, change of control, or investigation, concerning any person engaged in the business of conducting financial activities.

(3) Coordinate information sharing, where appropriate, among State, Federal, and foreign financial regulators, and law enforcement agencies, where sufficient privacy and confidentiality safeguards exist.

(4) Consider coordinating development by participants of a networked name-relationship index for persons engaged in the business of conducting financial activities using information from the databases of regulators, to the extent such information is available.

(5) Advise participants on coordinating their antifraud databases with the network.

(6) Coordinate development of guidelines by participants for ensuring appropriate privacy, confidentiality, and security of shared information, including tracking systems or testing audits, as appropriate.

(b) **CRITERIA FOR NETWORK WITH RESPECT TO ANY PERSON ENGAGED IN THE BUSINESS OF CONDUCTING FINANCIAL ACTIVITIES.**—

(1) **FINAL DISCIPLINARY AND FORMAL ENFORCEMENT ACTIONS.**—Each financial regulator that is represented by a member of the Subcommittee under section 101(a) or by a financial liaison to the Subcommittee under section 101(b) shall allow any participant access, through the network, to any public final disciplinary or formal enforcement action by such regulator which is accessible electronically relating to the conduct of persons engaged in the business of conducting financial activities that is fraudulent or dishonest, involves a breach of trust, or relates to the failure to register with the appropriate financial regulator as required by law.

(2) **SENSE OF THE CONGRESS ON OTHER INFORMATION.**—It is the sense of the Congress that the financial regulators should consider sharing through the network other relevant and useful antifraud information relating to companies and other persons engaged in conducting financial activities, to the extent practicable and appropriate when adequate privacy, confidentiality, and security safeguards governing access to and the use of such information have been developed that—

(A) is accessible by the public; or

(B) consists of information, that does not include personally identifiable information on consumers, on—

(i) licenses and applications, financial affiliations and name-relationships, aggregate trend data, or reports filed by a regulated entity with the participant; or

(ii) similar information generated by or for a participant if—

(I) such information is being shared for the purpose of verifying an application or other report filed by a regulated entity; and

(II) the participant determines such information is factual and substantiated.

(3) **NOTICE AND RESPONSE.**—If a financial regulator takes an adverse action against a person engaged in the business of conducting financial activities on the basis of information described in paragraph (1) or (2) that was received from another participant through the network, the regulator shall—

(A) notify the person of the identity of the participant from whom such information was received;

(B) provide the person with a specific and detailed description of the information that was received from the other participant through the network and would be relied on in taking the adverse action; and

(C) notify the person of the right to a reasonable opportunity to respond to such information.

(4) **PROVISIONS RELATING TO REQUIREMENTS.**—

(A) **TIME OF NOTICE.**—Any notice to any person, and an opportunity to respond, under paragraph (3) shall be provided to the person a reasonable period of time before any final action against the person which is based on information referred to in such paragraph is completed, unless the financial regulator determines that such advance notice and opportunity to respond is impracticable or inappropriate, in which case the notice and opportunity to respond shall be provided at the time of such final action.

(B) **VERIFICATION OR SUBSTANTIATION OF INFORMATION.**—With respect to paragraph (3), a delay in the consideration of a license, application, report, or other request for the purpose of verifying or substantiating information relating to such license, application, report, or other request shall not be treated as an adverse action if the verification or substantiation of such information is completed within a reasonable time.

(5) **USE OF CENTRALIZED DATABASES.**—

(A) **IN GENERAL.**—A financial regulator shall be deemed to have met the requirements of paragraph (1) if the Subcommittee determines that the participants have access to a centralized database that contains information on public final disciplinary or formal enforcement actions similar to that described in paragraph (1) or if the financial regulator makes the information described in paragraph (1) available to the public over the Internet.

(B) **FACTORS FOR DETERMINATION.**—The Subcommittee shall make the determination under subparagraph (A) on an ongoing basis, considering both short-term costs and technological limitations, as well as the need for long-term comprehensive coverage, and other appropriate factors.

(C) **STATE SUPERVISORS.**—It is the sense of the Congress that the National Association of Insurance Commissioners, the Conference of State Bank Supervisors, the American Council of State Savings Supervisors, the National Association of State Credit Union Supervisors, and the North American Securities Administrators Association should develop model guidelines for regulators in their respective regulated financial industries, where appropriate, to promote uniform standards for sharing information with the network under this section.

(c) **FINANCIAL REGULATOR CONTROL OF ACCESS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (4), each participant that allows access to its databases or information by other participants through the network may

establish parameters for controlling or limiting such access, including the regulation of—

(A) the type or category of information that may be accessed by other participants and the extent to which any such type or category of information may be accessed;

(B) the participants that may have access to the database or any specific type or category of information in the database (whether for reasons of cost reimbursement, data security, efficiency, or otherwise); and

(C) the disclosure by any other participant of any type or category of information that may be accessed by the participant.

(2) **PROCEDURES.**—A participant may establish the parameters described in paragraph (1) by regulation, order, or guideline or on a case-by-case basis.

(3) **DISCLAIMER.**—

(A) **IN GENERAL.**—Each participant shall ensure that any transfer of information through the network under this section, other than information described in paragraph (1) of subsection (b), from such participant to another participant is subject to a disclaimer that the information accessed may be unsubstantiated and may not be relied on as the basis for denying any application or license.

(B) **SUBCOMMITTEE FLEXIBILITY.**—The Subcommittee may prescribe such guidelines as the Subcommittee determines to be appropriate governing the location, wording, and frequency of disclaimers under this paragraph and the manner in which any such disclaimer shall be made.

(4) **FINAL DISCIPLINARY AND FORMAL ENFORCEMENT ACTIONS NOT SUBJECT TO LIMITATION.**—This subsection, and standards or procedures adopted by any participant under this subsection, shall not apply with respect to information described in paragraph (1) of subsection (b).

(5) **NO EFFECT ON PUBLIC OR COMPANY ACCESS.**—No provision of this section shall replace, supersede, or otherwise affect access to any databases maintained by any Federal or State regulator, or any entity representing any such regulator, which are accessible by the public or persons engaged in the business of conducting financial activities.

(d) **ELIGIBILITY REQUIREMENTS FOR STATE SECURITIES ADMINISTRATORS.**—

(1) **IN GENERAL.**—No State securities administrator shall be eligible to be a participant and access the network unless—

(A) such State securities administrator participates in a centralized database for broker-dealers, broker-dealer agents, investment advisers, and investment advisor representatives, registered or required to be registered, as designated by the North American Securities Administrators Association; and

(B) such State securities administrator requires the broker-dealer, broker-dealer agent, investment adviser, or investment advisor representative, currently registered or required to be registered, to file any application, amendment to an application, or a renewal of an application through the centralized registration database.

(2) **TIME DELAY FOR PARTICIPATION IN DATABASES.**—The provisions of paragraph (1) shall not become effective until 3 years after the date of enactment of this Act.

(e) **ELIGIBILITY REQUIREMENTS FOR STATE INSURANCE COMMISSIONERS.**—

(1) **PARTICIPATION IN DATABASES.**—No State insurance commissioner shall be eligible to access the network unless such commissioner participates with other State insurance commissioners—

(A) in a centralized database addressing disciplinary or enforcement actions taken against persons engaged in the business of insurance, such as the Regulatory Informa-

tion Retrieval System maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such System; and

(B) in centralized databases addressing, with respect to persons engaged in the business of insurance—

(i) corporate and other business affiliations or relationships, such as the Producer Database maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such Database; and

(ii) consumer complaints, such as the Complaints Database maintained by the National Association of Insurance Commissioners or any network or database designated by such Association as a successor to such Database.

(2) **TIME DELAY FOR PARTICIPATION IN DATABASES.**—The provisions of subparagraph (1)(B) of this section shall not become effective until 3 years after the date of enactment of this Act.

(3) **ACCREDITATION.**—No State insurance commissioner shall be eligible to access the network unless the State insurance department which such commissioner represents meets 1 of the following accreditation requirements at the time of access to the network:

(A) Is accredited by the National Association of Insurance Commissioners.

(B) Has an application for accredited status pending with the National Association of Insurance Commissioners.

(C) Has a determination by the Subcommittee in effect that such State insurance department meets or exceeds the standards established by the National Association of Insurance Commissioners for accreditation.

(f) **SUBCOMMITTEE STANDARDS.**—The Subcommittee shall consider developing guidelines for participants on—

(1) how to denote which types of information are to receive different levels of confidentiality protection; and

(2) how entities or associations that act as agents for financial regulators should denote such agency status when acting in that capacity.

(g) **REPORTING AND FEASIBILITY REQUIREMENTS AND REVIEW OF OPTIMAL NETWORKING METHODS.**—

(1) **REPORT.**—Before the end of the 180-day period beginning on the date this subtitle takes effect in accordance with section 101(a), and again before the end of the 2-year period beginning on such date, the Subcommittee shall submit a report to the Congress regarding the methods the regulators plan to use to network information, and a description of any impediments to (or recommended additional legislation for) facilitating the appropriate sharing of such information.

(2) **TIMEFRAME FOR NETWORKING.**—

(A) **IN GENERAL.**—The networking of information required under subsection (b)(1) shall be established before the end of the 2-year period beginning on the date this subtitle takes effect, unless the Subcommittee determines, in conjunction with the liaisons, that such a network cannot be established within such time period in a practicable and cost-effective manner.

(B) **REPORTS ON EFFORTS IF TIMEFRAME IS NOT MET.**—If the Subcommittee makes such a determination, the Subcommittee shall report annually to the Congress on its efforts to coordinate the sharing of appropriate information among the regulators until the networking requirements are fulfilled.

(h) **OTHER SHARING ARRANGEMENTS NOT AFFECTED.**—No provision of this section shall be construed as limiting or otherwise affecting the authority of a financial regulator or

other member or liaison of the Subcommittee to provide any person, including another participant, access to any information in accordance with any provision of law other than this Act.

(i) **NO NEW DATABASES OR EXPENDITURES MANDATED.**—In implementing this Act, the Subcommittee shall not have any authority to require a member or liaison to create a new database or otherwise incur significant costs in modifying existing databases for the networking of information.

#### **SEC. 103. CHAIRPERSON; TERM OF CHAIRPERSON; MEETINGS; OFFICERS AND STAFF.**

(a) **CHAIRPERSON.**—

(1) **SELECTION.**—The members of the Subcommittee shall select the Chairperson from among the members of the Subcommittee.

(2) **TERM.**—The term of the Chairperson shall be 2 years.

(b) **MEETINGS.**—The Subcommittee shall meet at the call of the Chairperson or a majority of the members when there is business to be conducted.

(c) **QUORUM.**—A majority of members of the Subcommittee shall constitute a quorum.

(d) **MAJORITY VOTE.**—Decisions of the Subcommittee shall be made by the vote of a majority of the members of the Subcommittee.

(e) **OFFICERS AND STAFF.**—The Chairperson of the Subcommittee may appoint such officers and staff as may be necessary to carry out the purposes of the Subcommittee.

#### **SEC. 104. NONAGENCY STATUS.**

The Subcommittee shall not be considered an advisory committee for purposes of the Federal Advisory Committee Act or as an agency for purposes of subchapter II of chapter 5 of title 5, United States Code.

#### **SEC. 105. POWERS OF THE SUBCOMMITTEE.**

(a) **IN GENERAL.**—The Subcommittee shall have such powers as are necessary to carry out the purposes of the Subcommittee under this title.

(b) **INFORMATION TO FACILITATE COORDINATION.**—Each agency and entity represented by a member or liaison shall, to the extent permitted by law, provide the Subcommittee with a description of the types of databases maintained by the agency or entity to assist the Subcommittee in carrying out the purposes described in section 102(a).

(c) **SERVICE OF MEMBERS AND LIAISONS.**—Members of and liaisons to the Subcommittee shall serve without additional compensation for their work on the Subcommittee.

(d) **ADMINISTRATIVE AND TECHNICAL SUPPORT.**—The Subcommittee may request that any agency or entity represented by a member or liaison provide the Subcommittee with any administrative, technical, or other support service that the Subcommittee determines is necessary or appropriate for it to carry out the purposes described in section 102(a).

#### **SEC. 106. AGREEMENT ON COST STRUCTURE.**

(a) **IN GENERAL.**—The Subcommittee shall determine, after consultation with the affected participants or their representatives, the means for providing for any costs the Subcommittee may incur in carrying out the purposes of this subtitle.

(b) **CONSULTATION AND AGREEMENT ON FEES AND CONTRIBUTIONS.**—Notwithstanding any other provision of this subtitle, the Subcommittee may not impose any fee or assessment on, or apportion any contribution against, any member or liaison under this section unless—

(1) the Subcommittee consults with such member or liaison; and

(2) the member or liaison consents to the amounts, or to a schedule, of such fees, assessments, or contributions.

(c) REIMBURSEMENT OF PARTICIPANT COSTS.—Before allowing access by the Subcommittee or a participant to any information described in section 102, other than access described in subsection (b)(1) of such section, a member or liaison may request the reimbursement of reasonable costs for providing such access.

#### Subtitle C—Regulatory Provisions

##### SEC. 111. AGENCY SUPERVISORY PRIVILEGE.

(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) SUPERVISORY PROCESS.—The term “supervisory process” means any activity engaged in by a financial regulator to carry out the official responsibilities of the financial regulator with regard to the regulation or supervision of persons engaged in the business of conducting financial activities, including examinations, inspections, visitations, investigations, consumer complaints, or any other regulatory or supervisory activities.

(2) CONFIDENTIAL SUPERVISORY INFORMATION.—Subject to paragraph (3), the term “confidential supervisory information” means any of the following information which is treated as, or considered to be, confidential information by a financial regulator, regardless of the form or format in which the information is created, conveyed, or maintained:

(A) Any report of examination, inspection, visitation, or investigation, and information prepared or collected by the financial regulator in connection with the supervisory process, including—

(i) any file, work paper, or similar information;

(ii) any correspondence, communication, or information exchanged, in connection with the supervisory process, between a financial regulator and a person engaged in the business of conducting financial activities; and

(iii) any information, including any report, created by or on behalf of a person engaged in the business of conducting financial activities that is required by, or is prepared at the request of, a financial regulator in connection with the supervisory process.

(B) Any record to the extent it contains information derived from any report, correspondence, communication or other information described in subparagraph (A).

(C) Any consumer complaints filed with the financial regulator by a consumer with respect to a person engaged in the business of conducting financial activities that have been identified by the financial regulator as requiring confidential treatment to protect the integrity of an investigation or the safety of an individual.

(3) EXCLUSIONS.—The term “confidential supervisory information” shall not include—

(A) any book, record, or other information, in the possession of, or maintained on behalf of, the person engaged in the business of conducting financial activities that—

(i) is not a report required by, or prepared at the request of, a financial regulator; and

(ii) is not, and is not derived from, confidential supervisory information that was created or prepared by a financial regulator; or

(B) any information required to be made publicly available by—

(i) any applicable Federal law or regulation; or

(ii) in the case of confidential supervisory information created by a State financial regulator or requested from a person engaged in the business of conducting financial activities by a State financial regulator, any applicable State law or regulation that specifically refers to such type of information.

(b) SHARING OF REPORTS.—

(1) IN GENERAL.—No provision of this section shall be construed as preventing—

(A) a person engaged in the business of conducting financial activities from providing a report that is required by, or prepared at the request of, a financial regulator (the originating financial regulator) to another financial regulator that has the authority to obtain the information from the person under any other provision of law;

(B) a financial regulator that obtains a report described in subparagraph (A) from a person engaged in the business of conducting financial activities from using or disclosing such report to the extent otherwise permitted by law; or

(C) a person engaged in the business of conducting financial activities from sharing confidential supervisory information with the person's attorneys, accountants, and auditors, solely for the purpose of providing legal, accounting, or auditing services, respectively, for such person, except that—

(i) such sharing shall not be considered a disclosure for any other purpose;

(ii) the attorneys, accountants, or auditors may not further disclose such information; and

(iii) such sharing shall be conducted in accordance with any other applicable governing laws and regulations.

(2) PRIVILEGE PRESERVED.—If a person provides a report referred to in paragraph (1) to a financial regulator other than the originating financial regulator, such action shall not affect the ability of the originating financial regulator to assert any privilege that such financial regulator may claim with respect to the report against any person that is not a financial regulator.

(c) FINANCIAL REGULATOR SUPERVISORY PRIVILEGE.—

(1) PRIVILEGE ESTABLISHED.—

(A) IN GENERAL.—All confidential supervisory information shall be privileged from disclosure to any person except as provided in this section.

(B) PROHIBITION ON UNAUTHORIZED DISCLOSURES.—No person in possession of confidential supervisory information may disclose such information, in whole or in part, without the prior authorization of the financial regulator that created the information, or requested the information from a person engaged in the business of conducting financial activities, except for a disclosure made in published statistical material that does not disclose, either directly or when used in conjunction with publicly available information, the affairs of any person or other personally identifiable information.

(C) AGENCY WAIVER.—The financial regulator that created the confidential supervisory information, or requested the confidential supervisory information from a person engaged in the business of conducting financial activities, may waive, in whole or in part, in the discretion of the regulator, any privilege established under this paragraph with respect to such information.

(2) EXCEPTIONS.—

(A) ACCESS BY GOVERNMENTAL BODIES.—

(i) CONGRESS AND GENERAL ACCOUNTING OFFICE.—No provision of paragraph (1) shall be construed as preventing access to confidential supervisory information by duly authorized committees of the Congress or the Comptroller General of the United States.

(ii) FINANCIAL REGULATOR OVERSIGHT.—No financial regulator which is described in subparagraph (P), (Q), or (R) of section 115(3) and is subject to the oversight of a Federal financial regulator may assert the privilege described in paragraph (1) to prevent access to confidential supervisory information by such Federal financial regulator.

(B) PRIVILEGE NOT WAIVED.—If a financial regulator provides access to confidential su-

pervisory information to the Congress, the Comptroller General, or another financial regulator, such action shall not affect the ability of the financial regulator to assert any privilege associated with such information against any other person.

(d) TREATMENT OF FOREIGN SUPERVISORY INFORMATION.—In any proceeding before a Federal or State court of the United States, in which a person seeks to compel production or disclosure by a financial regulator of information or documents prepared or collected by a foreign financial regulator that would, had the information or document been prepared or collected by a financial regulator, be confidential supervisory information for purposes of this section, the information or document shall be privileged to the same extent that the information and documents of financial regulators are privileged under this title.

(e) OTHER PRIVILEGES NOT WAIVED BY DISCLOSURE TO FINANCIAL REGULATOR.—The submission by a person engaged in the business of conducting financial activities of any information to a financial regulator or a foreign financial regulator in connection with the supervisory process of such financial regulator or foreign financial regulator shall not waive, destroy, or otherwise affect any privilege such person may claim with respect to such information under Federal or State law as to a party other than such financial regulator or foreign financial regulator.

(f) DISCOVERY AND DISCLOSURE OF INFORMATION.—

(1) INFORMATION AVAILABLE ONLY FROM FINANCIAL REGULATOR.—

(A) IN GENERAL.—No person (other than the financial regulator that created the information or requested the information from a person engaged in the business of conducting financial activities) may disclose, in whole or in part, any confidential supervisory information to any person who seeks such information through subpoena, discovery procedures, or otherwise.

(B) PROCEDURE FOR REQUESTS SUBMITTED TO FINANCIAL REGULATOR.—

(i) IN GENERAL.—Any request for discovery or disclosure of confidential supervisory information shall be made to the financial regulator that created the information, or requested the information from a person engaged in the business of conducting financial activities.

(ii) PROCEDURE.—Upon receiving a request for confidential supervisory information, the financial regulator shall determine within a reasonable time period whether to disclose such information pursuant to procedures and criteria established by the financial regulator.

(C) NOTIFICATION.—

(i) IN GENERAL.—Before any financial regulator releases confidential supervisory information that was requested from a person engaged in the business of conducting financial activities to a person under subparagraph (B), notice and a reasonable time for comment shall be provided to the person from whom such information was requested unless such information—

(I) is being provided to another financial regulator, an agency or entity represented by a liaison to the Subcommittee, or a Federal, State, or foreign government (or any agency or instrumentality of any such government acting in any capacity);

(II) is being sought for use in a criminal proceeding or investigation, or a regulatory, supervisory, enforcement, or disciplinary administrative proceeding, civil action, or investigation; or

(III) was originally created, or included in information created, by the financial regulator.

(ii) PROCEDURES AND REQUIREMENTS.—A financial regulator may prescribe regulations, or issue orders, guidelines, or procedures, governing the notice and time period required by clause (1).

(2) FEDERAL COURT JURISDICTION OVER DISPUTES.—

(A) DECLARATORY JUDGMENT.—If a party seeks in any action or proceeding to compel disclosure of confidential supervisory information, a financial regulator may in a civil action for a declaratory judgment seek to prevent such disclosure.

(B) JUDICIAL REVIEW.—Judicial review of the final action of a financial regulator with regard to the disposition of a request for confidential supervisory information shall be before a district court of the United States of competent jurisdiction, subject to chapter 7 of part I of title 5, United States Code.

(g) AUTHORITY TO INTERVENE.—In the case of any action or proceeding to compel compliance with a subpoena, order, discovery request, or other judicial or administrative process with respect to any confidential supervisory information of a financial regulator concerning any person engaged in the business of conducting financial activities, the financial regulator may intervene in such action or proceeding, and such person may intervene with such regulator, for the purpose of—

(1) enforcing the limitations established in paragraph (1) of subsections (c) and (f);

(2) seeking the withdrawal of any compulsory process with respect to such information; and

(3) registering appropriate objections with respect to the action or proceeding to the extent the action or proceeding relates to or involves such information.

(h) RIGHT TO APPEAL.—Any court order that compels production of confidential supervisory information may be immediately appealed by the financial regulator and the order compelling production shall be automatically stayed, pending the outcome of such appeal.

(i) REGULATIONS.—

(1) AUTHORITY TO PRESCRIBE.—Each financial regulator may prescribe such regulations as the regulator considers to be appropriate, after consultation with the other financial regulators (to the extent the prescribing financial regulator considers appropriate and feasible), to carry out the purposes of this section.

(2) AUTHORITY TO REQUIRE NOTICE.—Any regulations prescribed by a financial regulator under paragraph (1) may require any person in possession of confidential supervisory information to notify the financial regulator whenever the person is served with a subpoena, order, discovery request, or other judicial or administrative process requiring the personal attendance of such person as a witness or requiring the production of such information in any proceeding.

(j) ABILITY TO PARTIALLY WAIVE PRIVILEGE WHERE NO OTHER PRIVILEGE APPLIES.—A financial regulator may, to the extent permitted by applicable law governing the disclosure of information by the regulator, authorize a waiver of the privilege established by this section to allow access by a person to confidential supervisory information created by such regulator (or requested by such regulator from any person engaged in the business of conducting financial activities), except that—

(1) the regulator may place appropriate limits on the use and disclosure of the information shared, and may continue to assert the privilege with respect to any other person that seeks access to the information; and

(2) such waiver shall not affect any other privilege or confidentiality protection that any party may assert against any person other than such financial regulator.

(k) SHARING OF CONFIDENTIAL SUPERVISORY INFORMATION AMONG FEDERAL FUNCTIONAL REGULATORS.—A Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act) shall freely share, upon request, any confidential supervisory information created by it with another Federal functional regulator subject only to any existing legal restrictions on the regulator's authority to share or disclose information and to the following paragraphs:

(1) REQUESTS DIRECTED TO REGULATOR.—A Federal functional regulator may seek information described in this subsection solely from the Federal functional regulator that created the information (hereafter in this subsection referred to as the "originating regulator"), and not from any other person (unless authorized by the originating regulator).

(2) REVIEW OF REQUESTS.—Notwithstanding any other provision of law, in response to a request for such information, the originating regulator may decline to provide any portion of the information if the originating regulator, in consultation with the requesting regulator and after giving due consideration to the request, determines that withholding the information is appropriate in the public interest.

(3) USE WITHIN AGENCY PERMITTED.—Any confidential supervisory information received by a requesting regulator under this subsection may be shared freely among personnel within the requesting regulator.

(4) APPROVAL REQUIRED FOR OTHER USES.—The requesting regulator shall obtain the approval of the originating regulator before any information described in this subsection is—

(A) made public;

(B) provided to any third person or agency; or

(C) cited or made a part of the record in the course of any enforcement action.

(l) ACCESS TO INFORMATION OF REGULATED ENTITY PRESERVED.—No provision of this section shall be construed as preventing a Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act) from obtaining from any person, other than a Federal functional regulator, any book, record or information (other than confidential supervisory information created by a Federal functional regulator), including any book, record or other information referred to in, or constituting the underlying data for, any confidential supervisory information created by another Federal functional regulator.

(m) NO GRANT OF AUTHORITY.—No provision of this section shall be construed as providing any financial regulator any new authority to request or obtain information.

(n) NO WAIVER OF ANY PRIVILEGE OF ANY OTHER PARTY.—No provision of this Act shall be construed as providing a financial regulator with any new authority to disclose information in contravention of applicable law governing disclosure of information.

#### SEC. 112. CONFIDENTIALITY OF INFORMATION.

(a) IN GENERAL.—

(1) FINANCIAL REGULATORS.—Except as otherwise provided in this section or section 111, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material in the possession of any participant, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed through the network to another participant or, if subtitle B has taken effect, the Subcommittee.

(2) CERTAIN INSURANCE INFORMATION.—Except as otherwise provided in this section or

section 111, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material in the possession of the National Association of Insurance Commissioners, or any member or affiliate of the Association, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information has been disclosed to the Association, or any other member or affiliate of the Association, through the computer databases maintained by the Association.

(3) NONAPPLICABILITY OF CERTAIN REQUIREMENTS.—Information or material that is subject to a privilege or confidentiality under any other paragraph of this subsection shall not be subject to—

(A) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or

(B) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by a participant with respect to such information or material, the participant waives, in whole or in part, in the discretion of the participant, such privilege.

(b) PREEMPTION OF STATE LAW.—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with any provision of section 111 or subsection (a) of this section shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(c) DUTY OF FINANCIAL REGULATOR TO MAINTAIN CONFIDENTIALITY.—A participant may not receive, download, copy, or otherwise maintain any information or material from any other member of or liaison to the Subcommittee through the network unless—

(1) the participant maintains a system that enables the participant to maintain full compliance with the requirements of sections 100, 102, and 111 and this section, with respect to such information and material; and

(2) if and to the extent required by the guidelines established under sections 100 and 102, a record is maintained of each attempt to access such information and material, and the identity of the person making the attempt, in order to prevent evasions of such requirements.

#### SEC. 113. LIABILITY PROVISIONS.

(a) NO LIABILITY FOR GOOD FAITH DISCLOSURES.—Any financial regulator, and any officer or employee of any financial regulator, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee, while acting within the scope of office or employment, relating to collecting, furnishing, or disseminating regulatory or supervisory information concerning persons engaged in the business of conducting financial activities, to or from another financial regulator, whether directly or through the network.

(b) CRIMINAL LIABILITY FOR INTENTIONAL UNLAWFUL DISCLOSURES.—

(1) IN GENERAL.—It shall be unlawful to willfully disclose to any person any information concerning any person engaged in the business of conducting financial activities knowing the disclosure to be in violation of any provision of this title—

(A) requiring the confidentiality of such information; or

(B) establishing a privilege from disclosure for such information that has not been waived by the relevant financial regulator.

(2) **PENALTY.**—Notwithstanding section 3571 of title 18, United States Code, any person who violates paragraph (1) shall be fined an amount not to exceed the greater of \$100,000 or the amount of the actual damages sustained by any person as a result of such violation, or imprisoned not more than 5 years, or both.

(c) **FULL, CONTINUED PROTECTION UNDER THE SO-CALLED "FEDERAL TORT CLAIMS ACT".**—No provision of this Act shall be construed as reducing or limiting any protection provided for any Federal agency, or any officer or employee of any Federal agency, under section 2679 of title 28, United States Code.

(d) **PROTECTION APPLIED TO THE SUBCOMMITTEE.**—For the purposes of this section, the term "financial regulator" includes the Subcommittee after subtitle B has taken effect.

#### **SEC. 114. AUTHORIZATION FOR IDENTIFICATION AND CRIMINAL BACKGROUND CHECK.**

(a) **SHARING OF CRIMINAL RECORDS.**—

(1) **ATTORNEY GENERAL AUTHORIZATION.**—Upon receiving a request from a financial regulator, the Attorney General shall—

(A) search the records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation, and any other similar database over which the Attorney General has authority and deems appropriate, for any criminal background records (including wanted persons information) corresponding to the identification information provided under subsection (b); and

(B) either—

(i) shall provide any such records to any authorized agent of the financial regulator, which shall provide the relevant information to such regulator; or

(ii) may provide such records directly to the financial regulator if the Attorney General limits such provision of records to relevant information.

(2) **AUTHORIZED AGENT DEFINED.**—For purposes of this section, the term "authorized agent" means—

(A) any agent which has been recognized by the Attorney General for such purpose and authorized by at least 3 other financial regulators to receive such records and perform the information sharing requirements of paragraph (3);

(B) the State attorney general for the State in which the regulator is primarily located; and

(C) any law enforcement designee of the Attorney General or such State attorney general.

(3) **INFORMATION SHARED.**—

(A) **IN GENERAL.**—The authorized agent shall provide to the requesting financial regulator only any records that are relevant information.

(B) **RELEVANT INFORMATION DEFINED.**—For purposes of this section, the term "relevant information" means any of the following records:

(i) All felony convictions.

(ii) All misdemeanor convictions involving—

(I) violation of a law involving financial activities;

(II) dishonesty or breach of trust, within the meaning of section 1033 of title 18, United States Code, including taking, withholding, misappropriating, or converting money or property;

(III) failure to comply with child support obligations;

(IV) failure to pay taxes; and

(V) domestic violence, child abuse, or a crime of violence.

(C) **CRIME OF VIOLENCE DEFINED.**—For purposes of subparagraph (B)(ii)(V), the term "crime of violence" means a burglary of a dwelling and a criminal offense that has as an element the use or attempted use of physical force, or threat of great bodily harm, or the use, attempted use, or threatened use of a deadly weapon, against an individual, including committing or attempting to commit murder, manslaughter, kidnapping, aggravated assault, forcible sex offenses, robbery, arson, extortion, and extortionate extension of credit.

(4) **STATE UNIFORM OR RECIPROCITY LAWS REQUIREMENT.**—

(A) **IN GENERAL.**—The Attorney General may not provide any records under this subsection to an insurance regulator of a State, or agent of such regulator, if such State does not have in effect uniform or reciprocity laws and regulations governing the licensure of individuals and entities authorized to sell and solicit the purchase of insurance within the State as set forth in section 321 of P.L. 106-102.

(B) **DETERMINATION OF RECIPROCITY.**—The determination of whether or not a State has uniform or reciprocity laws or regulations in effect for purposes of subparagraph (A) shall be made by the Attorney General, with the advice and counsel of the National Association of Insurance Commissioners.

(C) **EXCEPTION UNDER CERTAIN CIRCUMSTANCES.**—Notwithstanding subparagraph (B), the Attorney General may provide records under this section to an insurance regulator of a State, or agent of such regulator, on the basis of a specific determination by the National Association of Insurance Commissioners that such State has in effect uniform or reciprocity laws and regulations referred to in subparagraph (A) if—

(i) a determination by the Attorney General under subparagraph (B) is pending; or

(ii) the Attorney General considers whether such State has in effect such uniform or reciprocity laws or regulations and fails to make a determination, unless the Attorney General subsequently determines that such State does not have in effect uniform or reciprocity laws or regulations.

(b) **FORM OF REQUEST.**—A request under subsection (a) shall include a copy of any necessary identification information required by the Attorney General, such as the name and fingerprints of the person about whom the record is requested and a statement signed by the person acknowledging that the regulator (or such regulator's designated agent under subsection (g)(1)) may request the search.

(c) **LIMITATION ON PERMISSIBLE USES OF INFORMATION.**—Information obtained under this section may—

(1) be used only for regulatory or law enforcement purposes; and

(2) be disclosed—

(A) only to other financial regulators or Federal or State law enforcement agencies; and

(B) only if the recipient agrees to—

(i) maintain the confidentiality of such information; and

(ii) limit the use of such information to appropriate regulatory and law enforcement purposes.

(d) **PENALTY FOR IMPROPER USE.**—

(1) **IN GENERAL.**—Whoever uses any information obtained under this section knowingly and willfully for an unauthorized purpose shall be fined under title 18, United States Code, imprisoned for not more than 2 years, or both.

(2) **ADDITIONAL PENALTIES AND WAIVERS.**—

(A) **IN GENERAL.**—Any authorized agent who violates paragraph (1), or any individual who directs such agent to violate such paragraph, shall be barred from engaging in or

regulating any activities related to the business of insurance.

(B) **WAIVER AUTHORIZED.**—The Attorney General, in the discretion of the Attorney General, may waive the bar in subparagraph (A), as appropriate.

(e) **RELIANCE ON INFORMATION.**—A financial regulator (or such regulator's designated agent under subsection (g)(1)) who reasonably relies on information provided under this section shall not be liable in any action for using information as permitted under this section in good faith.

(f) **CLARIFICATION OF SECTION 1033.**—With respect to any action brought under section 1033(e)(1)(B) of title 18, United States Code, no person engaged in the business of conducting financial activities shall be subject to any penalty resulting from such section if the individual who the person permitted to engage in the business of insurance is licensed, or approved (as part of an application or otherwise), by a State insurance regulator that performs criminal background checks under this section, unless such person knows that the individual is in violation of section 1033(e)(1)(A) of such title.

(g) **DESIGNATION OF AGENT.**—

(1) **IN GENERAL.**—A financial regulator may designate an agent for facilitating requests and exchanges of information under this section between or among the financial regulator, the Attorney General, and any other authorized agent.

(2) **SENSE OF CONGRESS REGARDING AGENTS OF INSURANCE REGULATORS.**—It is the sense of the Congress that—

(A) each State insurance commissioner should designate the National Association of Insurance Commissioners as an agent under paragraph (1);

(B) persons engaged in the business of insurance should be able to use the National Association of Insurance Commissioners to facilitate obtaining fingerprints and supplying identification information for use in background checks under this section on a multijurisdictional basis;

(C) the National Association of Insurance Commissioners should maintain a database to obtain records under this section for use by State insurance commissioners to reduce multiple or duplicative fingerprinting requirements and criminal background checks, except that any such record shall not be maintained for more than 1 year without performing a new background check to determine if the criminal background record has changed;

(D) other financial regulators that require fingerprints and criminal background checks should similarly coordinate efforts to reduce duplication for persons engaged in the business of conducting multiple types of financial activities; and

(E) the National Association of Insurance Commissioners, and other financial regulators that use this section, should consult with the Attorney General to consider the feasibility of developing an on-going notification system that would allow the Attorney General to notify such Association when a licensed or approved insurance professional is convicted of a relevant crime.

(h) **FEEES.**—The Attorney General may charge a reasonable fee for the provision of information under this section.

(i) **RULE OF CONSTRUCTION.**—This section shall not—

(1) provide independent authorization for a financial regulator to require fingerprinting as a part of a licensure or other application;

(2) require a financial regulator to perform criminal background checks under this section; or

(3) supersede or otherwise limit any other authority that allows access to criminal background records.

(j) REGULATIONS.—The Attorney General may prescribe regulations to carry out this section.

#### SEC. 115. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) FEDERAL BANKING AGENCY.—The term “Federal banking agency” has the same meaning as given in section 3(z) of the Federal Deposit Insurance Act.

(2) FINANCIAL ACTIVITIES.—

(A) IN GENERAL.—The term “financial activities” —

(i) means banking activities (including the ownership of a bank), securities activities, insurance activities, or commodities activities; and

(ii) includes all activities that are financial in nature or are incidental to a financial activity (as defined under section 4(k) of the Bank Holding Company Act of 1956).

(B) RULE OF CONSTRUCTION.—Subparagraph (A) shall not be construed as creating any inference, including any negative inference, concerning the types or extent of activities that are appropriately recognized as activities that are financial in nature, or are incidental to a financial activity, for purposes of section 4 of the Bank Holding Company Act of 1956.

(3) FINANCIAL REGULATOR.—The term “financial regulator” means—

(A) each Federal banking agency;

(B) the Securities and Exchange Commission;

(C) the Commodity Futures Trading Commission;

(D) the National Credit Union Administration;

(E) the Farm Credit Administration;

(F) the Federal Housing Finance Board;

(G) the Federal Trade Commission, to the extent the Commission has jurisdiction over financial activities being conducted by a person engaged in the business of conducting financial activities;

(H) the Secretary of the Treasury, to the extent the Secretary has jurisdiction over financial activities being conducted by a person engaged in the business of conducting financial activities;

(I) the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development;

(J) the Appraisal Subcommittee of the Financial Institutions Examination Council;

(K) any State bank supervisor (as defined in section 3(r) of the Federal Deposit Insurance Act), including the Conference of State Bank Supervisors only to the extent such conference is acting as an agent of, and is subject to the oversight of, any such State bank supervisor;

(L) any State savings association supervisor, including the American Council of State Savings Supervisors only to the extent such conference is acting as an agent of, and is subject to the oversight of, any such State savings association supervisor;

(M) any State insurance commissioner, including the National Association of Insurance Commissioners only to the extent such association is acting as the agent of, and is subject to the oversight of, any such insurance commissioner;

(N) any State securities administrator, including the North American Securities Administrators Association only to the extent such association is acting as the agent of, and is subject to the oversight of, any such securities administrator;

(O) any State credit union supervisor, including the National Association of State Credit Union Supervisors only to the extent such association is acting as the agent of, and is subject to the oversight of, any such credit union supervisor;

(P) the National Association of Securities Dealers, only to the extent that—

(i) such association is acting in connection with the financial services industry; and

(ii) the association and the relevant actions are subject to the oversight of the Securities and Exchange Commission;

(Q) the National Futures Association, only to the extent that—

(i) such association is acting in connection with the financial services industry; and

(ii) the association and the relevant actions are subject to the oversight of the Commodity Futures Trading Commission or the Securities and Exchange Commission; and

(R) any other self-regulatory organization that engages in or coordinates regulatory and supervisory activities, with respect to any person engaged in the business of conducting financial activities, and is subject to the oversight of the Securities and Exchange Commission or the Commodity Futures Trading Commission, but only to the extent that the organization engages in such activities and is subject to such oversight.

(4) FOREIGN FINANCIAL REGULATOR.—The term “foreign financial regulator” means any agency, entity, or body (including a self-regulatory organization) that is empowered by the laws of a foreign country to supervise and regulate persons engaged in the business of conducting financial activities, but only to the extent of such supervisory and regulatory activities.

(5) PARTICIPANT.—The term “participant” means any entity described in section 101 as being represented by a member of, or a liaison to, the Subcommittee (regardless of whether subtitle B has taken effect) but only to the extent the regulator provides or obtains access to information through the network.

(6) PERSON.—The term “person” includes any financial regulator.

(7) PERSON ENGAGED IN THE BUSINESS OF CONDUCTING FINANCIAL ACTIVITIES.—The term “person engaged in the business of conducting financial activities” includes, to the extent appropriate under the laws applicable to the jurisdiction of a financial regulator over such person—

(A) any director, officer, employee, or controlling stockholder of, or agent for, any such person;

(B) any other person who has filed or is required to file a change-in-control notice with the appropriate financial regulator before acquiring control of such person; and

(C) any person who has sought approval from a financial regulator to engage in the business of conducting financial activities, or that was engaged in such business and subject to the jurisdiction of a financial regulator; and

(D) any shareholder, consultant, joint venture partner, and any other person, including an independent contractor, as determined by the appropriate financial regulator (by regulation or case-by-case) who participates in the conduct of the affairs of such person.

(8) STATE INSURANCE COMMISSIONER.—The term “State insurance commissioner” means any officer, agency, or other entity of any State which has primary regulatory authority over the business of insurance and over any person engaged in the business of insurance to the extent of such activities, in such State.

(9) STATE SECURITIES ADMINISTRATOR.—The term “State securities administrator” means the securities commission (or any agency or office performing like functions) of any State.

#### SEC. 116. TECHNICAL AND CONFORMING AMENDMENTS TO OTHER ACTS.

(a) Subsection (b) of section 552a of title 5, United States Code, is amended—

(1) by striking “and” at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting “; or”; and

(3) by inserting after paragraph (12) the following new paragraph:

“(13) for recordkeeping, licensing, and other regulatory and law enforcement purposes in accordance with title I of the Financial Services Antifraud Network Act of 2001—

“(A) through a network or name-relationship index maintained under such title; or

“(B) to a multistate database maintained by the National Association of Insurance Commissioners and any subsidiary or affiliate of such association, subject to the requirements of such title.”.

(b) Section 1113 of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

“(r) This title shall not apply to disclosure by a financial regulator of information pursuant to subtitle A or B of title I of the Financial Services Antifraud Network Act of 2001 to the extent the disclosure is made in accordance with the requirements of such Act.”.

(c) Section 602 of the Consumer Credit Protection Act (15 U.S.C. 1681) is amended by adding at the end the following new subsection:

“(c) This title shall not apply to a communication between participants, as defined in the Financial Services Antifraud Network Act of 2001, to the extent the communication is made in accordance with such Act.”.

#### SEC. 117. AUDIT OF STATE INSURANCE REGULATORS.

(a) IN GENERAL.—At the request of the Congress, the Comptroller General shall audit a State insurance regulator or any person who maintains information on behalf of such regulator.

(b) LIMITATIONS ON DISCLOSURE OF INFORMATION.—Except as provided in this subsection, an officer or employee of the General Accounting Office may not disclose information identifying an open insurance company or a customer of an open or closed insurance company. The Comptroller General may disclose information related to the affairs of a closed insurance company only if the Comptroller General believes the customer had a controlling influence in the management of the closed insurance company or was related to or affiliated with a person or group having a controlling influence.

(c) COORDINATION WITH STATE REGULATOR.—An officer or employee of the General Accounting Office may discuss a customer or insurance company with an official of a State insurance regulator and may report an apparent criminal violation to an appropriate law enforcement authority of the United States Government or a State.

(d) CONGRESSIONAL OVERSIGHT.—This subsection shall not be construed as authorizing an officer or employee of a State insurance regulator to withhold information from a committee of the Congress authorized to have the information.

(e) ADMINISTRATIVE ASPECTS OF AUDIT.—

(1) IN GENERAL.—To carry out this section, all records and property of or used by a State insurance regulator, including samples of reports of examinations of an insurance company the Comptroller General considers statistically meaningful and workpapers and correspondence related to the reports shall be made available to the Comptroller General. The Comptroller General shall give a State insurance regulator a current list of officers and employees to whom, with proper identification, records and property may be made available, and who may make notes or copies necessary to carry out an audit.

(2) PREVENTION OF UNAUTHORIZED ACCESS.—The Comptroller General shall prevent unauthorized access to records or property of or used by a State insurance regulator that the Comptroller General obtains during an audit.

(f) CONFIDENTIALITY.—

(1) IN GENERAL.—The Comptroller General shall maintain the same level of confidentiality for a record made available under this section as is required of the head of the State insurance regulator from which it is obtained.

(2) PREVENTION OF INVASION OF PERSONAL PRIVACY.—The Comptroller General shall keep information described in section 552(b)(6) of title 5, United States Code, that the Comptroller General obtains in a way that prevents unwarranted invasions of personal privacy.

(3) AVAILABILITY OF INFORMATION.—Except as provided in subsection (b), no provision of this section shall be construed as authorizing any information to be withheld from the Congress.

(g) AVAILABILITY OF INFORMATION AND INSPECTION OF RECORDS.—The right of access of the Comptroller General to information under this section shall be enforceable under section 716 of title 31, United States Code.

(h) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) STATE INSURANCE REGULATOR DEFINED.—The term “State insurance regulator” means the principal insurance regulatory authority of a State, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(2) INSURANCE COMPANY.—The term “insurance company” includes any person engaged in the business of insurance to the extent of such activities.

#### Subtitle D—Anti-Terrorism

### SEC. 121. PREVENTING INTERNATIONAL TERRORISM.

(a) IN GENERAL.—The financial regulators shall coordinate the network established under sections 100 and 101 with their foreign counterparts, to the extent the regulators deem possible, practicable, and appropriate, to help uncover, hinder, and prosecute the financial activities of terrorists.

(b) REPORT REQUIRED.—The entities described in section 101(a) shall report to the Congress by the end of the 6-month period beginning on the date of the enactment of this Act their further recommendations to the Congress for achieving the goals of subsection (a).

## TITLE II—SECURITIES INDUSTRY COORDINATION

### Subtitle A—Disciplinary Information

#### SEC. 201. INVESTMENT ADVISERS ACT OF 1940.

(a) AMENDMENT.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking “Every investment” and inserting the following:

“(a) IN GENERAL.—Every investment”; and

(2) by adding at the end the following:

“(b) FILING DEPOSITORIES.—The Commission, by rule, may require an investment adviser—

“(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

“(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

“(c) ACCESS TO DISCIPLINARY AND OTHER INFORMATION.—

“(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—The Commission shall require

the entity designated by the Commission under subsection (b)(1)—

“(A) to establish and maintain a toll-free telephone listing or other readily accessible electronic process to receive inquiries regarding disciplinary actions and proceedings and other information involving investment advisers and persons associated with investment advisers; and

“(B) to respond promptly to such inquiries.

“(2) RECOVERY OF COSTS.—An entity designated by the Commission under subsection (b)(1) may charge persons, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

“(3) LIMITATION ON LIABILITY.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b-10, note; P.L. 104-290; 110 Stat. 3439) is repealed.

#### SEC. 202. SECURITIES EXCHANGE ACT OF 1934.

Subsection (i) of section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3) is amended to read as follows:

“(i) OBLIGATION TO MAINTAIN DISCIPLINARY AND OTHER DATA.—

“(1) MAINTENANCE OF SYSTEM TO RESPOND TO INQUIRIES.—A registered securities association shall—

“(A) establish and maintain a toll-free telephone listing or other readily accessible electronic process to receive inquiries regarding disciplinary actions and proceedings and other information involving its members and their associated persons and regarding disciplinary actions and proceedings and other information that has been reported to the Central Registration Depository by any registered national securities exchange involving its members and their associated persons; and

“(B) promptly respond to such inquiries.

“(2) RECOVERY OF COSTS.—Such association may charge persons, other than individual investors, reasonable fees for responses to such inquiries.

“(3) LIMITATION ON LIABILITY.—Such an association or exchange shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.”.

### Subtitle B—Preventing Migration of Rogue Financial Professionals to the Securities Industry

#### SEC. 211. SECURITIES EXCHANGE ACT OF 1934.

(a) BROKERS AND DEALERS.—Section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) is amended—

(1) in paragraph (4), by striking subparagraphs (F) and (G) and inserting the following:

“(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a broker or dealer.

“(G) has been found by a foreign financial regulatory authority to have—

“(i) made or caused to be made in any application for registration or report required to be filed with a foreign financial regulatory authority, or in any proceeding before a foreign financial regulatory authority with respect to registration, any statement that was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material

fact, or omitted to state in any such application, report, or proceeding any material fact that is required to be stated therein;

“(ii) violated any foreign statute or regulation regarding securities, banking, thrift activities, credit union activities, insurance, or contracts of sale of a commodity for future delivery, traded on or subject to the rules of a contract market or any board of trade; or

“(iii) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any provision of any statutory provisions enacted by a foreign government, or rules or regulations thereunder, regarding securities, banking, thrift activities, credit union activities, insurance, or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or to have failed reasonably to supervise, with a view to preventing violations of such statutory provisions, rules, and regulations, another person who commits such a violation, if such other person is subject to his supervision.

“(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, thrifts, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the National Credit Union Administration, that—

“(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, thrift activities, or credit union activities; or

“(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”; and

(2) in paragraph (6)(A)(i), by striking “or omission enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)”.

(b) MUNICIPAL SECURITIES BROKERS AND DEALERS.—Section 15B(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-4(c)) is amended—

(1) in paragraph (2)—

(A) by striking “or omission enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)”;

(B) by striking “ten” and inserting “10”; and

(2) in paragraph (4) by striking “or omission enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)”.

(c) GOVERNMENT SECURITIES BROKERS AND DEALERS.—Section 15C(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78o-5(c)(1)) is amended—

(1) in subparagraph (A), by striking “or omission enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)”;

(2) in subparagraph (C), by striking “or omission enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)”.

(d) CLEARANCE AND SETTLEMENT.—Section 17A(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78q-1(c)) is amended—

(1) in paragraph (3)(A), by striking “enumerated in subparagraph (A), (D), (E), or (G)” and inserting “, or is subject to an order

or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)"; and

(2) in paragraph (4)(C)—

(A) by striking "enumerated in subparagraph (A), (D), (E), or (G)" and inserting ", or is subject to an order or finding, enumerated in subparagraph (A), (D), (E), (G), or (H)"; and

(B) by striking "ten years" and inserting "10 years".

(e) DEFINITION OF STATUTORY DISQUALIFICATION.—Section 3(a)(39)(F) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(39)(F)) is amended by striking "has committed or omitted any act enumerated in subparagraph (D), (E), or (G)" and inserting "has committed or omitted any act, or is subject to an order or finding, enumerated in subparagraph (D), (E), (G), or (H)".

#### SEC. 212. INVESTMENT ADVISERS ACT OF 1940.

(a) AUTHORITY TO DENY OR REVOKE REGISTRATION BASED ON STATE (AND OTHER GOVERNMENTAL) ADMINISTRATIVE ACTIONS.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended by striking paragraphs (7) and (8) and inserting the following:

"(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser.

"(8) has been found by a foreign financial regulatory authority to have—

"(A) made or caused to be made in any application for registration or report required to be filed with a foreign securities authority, or in any proceeding before a foreign securities authority with respect to registration, any statement that was at the time and in light of the circumstances under which it was made false or misleading with respect to any material fact, or has omitted to state in any such application, report, or proceeding any material fact that is required to be stated therein;

"(B) violated any foreign statute or regulation regarding securities, banking, thrift activities, credit union activities, insurance, or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade;

"(C) aided, abetted, counseled, commanded, induced, or procured the violation by any other person of any foreign statute or regulation regarding securities, banking, thrift activities, credit union activities, insurance, or contracts of sale of a commodity for future delivery traded on or subject to the rules of a contract market or any board of trade, or to have failed reasonably to supervise, with a view to preventing violations of statutory provisions, and rules and regulations promulgated thereunder, another person who commits such a violation, if such other person is subject to his supervision.

"(9) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, thrifts, or credit unions, State insurance commission (or any agency or officer performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)), or the National Credit Union Administration, that—

"(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, thrift activities, or credit union activities; or

"(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.".

(b) BARS ON FELONS ASSOCIATED WITH INVESTMENT ADVISERS.—Section 203(f) of the

Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended—

(A) by striking "or (8)" and inserting "(8), or (9)"; and

(B) by inserting "or (3)" after "paragraph (2)".

□ 1430

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentleman from Alabama (Mr. BACHUS) and the gentleman from Mississippi (Mr. SHOWS) each will control 20 minutes.

The Chair recognizes the gentleman from Alabama (Mr. BACHUS).

#### GENERAL LEAVE

Mr. BACHUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation, and to include extraneous material in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 1408, the Financial Services Antifraud Network Act of 2001. This bill is the product of long and careful deliberations in the Committee on Financial Services and the Subcommittee on Financial Institutions and Consumer Credit, which I have the honor of chairing.

I want to thank the subcommittee's ranking member, the gentlewoman from California (Ms. WATERS), for working with me in the spirit of bipartisanship to develop legislation that commands the broad consensus in the committee and deserves similar support on the House floor today.

Let me also commend the chairman of the full committee, the gentleman from Ohio (Mr. OXLEY), who made this bill one of the committee's highest priorities upon assuming his chairmanship at the beginning of this year, and then fought tenaciously to see it through to completion.

The gentleman from Michigan (Mr. ROGERS), more than anyone in this House, deserves enormous credit as both the principal architect of the legislation and its most forceful advocate in the committee.

As former FBI special agents who have investigated at the street level, both the gentleman from Ohio (Chairman OXLEY) and the gentleman from Michigan (Mr. ROGERS) are as well qualified as anyone in this body to lead an effort to shore up the antifraud capabilities of our Federal, State, and local authorities.

Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. ROGERS), the chief architect and chief sponsor of this legislation.

Mr. ROGERS of Michigan. Mr. Speaker, I thank the gentleman for yielding time to me.

I want to thank the gentleman from Alabama (Chairman BACHUS) and the

gentleman from Ohio (Chairman OXLEY) for their quick and decisive role in moving this bill, and for working with me and many others to get this bill to the floor today.

I also want to thank the ranking member, the gentleman from New York (Mr. LAFALCE) and the gentlewoman from California (Ms. WATERS) for sitting down and working through the differences that we had on this bill, and for coming up with what I think is a very, very good product that is going to do great things to protect senior citizens and those who are most at risk of losing their financial savings and investments around the country.

Mr. Speaker, the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), also was very gracious. I had a good conversation with him this morning, and I thank him for working with us and allowing us to get this bill to the floor of the House.

We have spent some time here, Mr. Speaker, working on terrorism and focusing the energies and resources of this great body on making sure that the President and this country had all the resources necessary to fight, defend, track down, and stop terrorism, both in the United States and abroad very important issues.

However, Mr. Speaker, there is that other person who is lying in the weeds, that other dangerous character who is, as we unfortunately know, in every community in America, who is just waiting for the opportunity to contact a senior citizen or someone who is not quite paying attention and bilk them out of the very precious savings that they have to get them through their golden years or get their kids through college or get that house payment made at the end of the month.

What we found in this financial services community that we have that is as different and diverse as it has ever been, and coming together with the Gramm-Leach-Bliley Act that has been passed in the past Congress, the lines have been blurred, but for the better.

One place where we had not caught up was the fact that we could drive a truck through the loopholes we have created between the different regulators of the different industries: the insurance industry, the securities industry, and the banking industry.

They are all different regulators having a horrible time communicating together to catch individuals who might steal from the securities field, and then move to the insurance field with no catch in the system that would stop them from doing that, and then again move to the banking and financial services realm and do it again.

Nothing under the current system would allow them to get caught or stop them from getting a license in each of those three, even if they had been barred from those other industries or from serving in that particular industry.

Mr. Speaker, I say this because there are two cases in Michigan which are

happening today which are extremely important.

We had a case in Michigan where an individual from Flint sold securities in the form of promissory notes on a casino company, LTD, went to these elderly individuals and sold them the idea of riches in a hurry, and if they invest in this key company they would reap the benefits of all the casino gaming industries in Michigan.

We soon found out, much to the peril of those investing, many of whom were senior citizens, that that money in fact was being used to pay his expenses and pay the expenses of his other companies, and paying off other loans that he had made throughout time, better known in the criminal world as a Ponzi scheme. He would take the money in to pay the others off, and continue doing this, to live off of those savings of so many individuals.

There is nothing in the law today to stop these individuals, even if they were barred from the securities industry forevermore, from going into the insurance products industry and doing something equally as dastardly with a license.

So what we have said is this. We said, we are not going to create a new database. There is no new information that is going to be sent here, Mr. Speaker. The Federal Government is not going to collect information on consumers or regulators all around the country. That is simply not going to happen.

But we are going to set up a system. We are going to be the traffic cop that allows these 250 regulators of securities and banking and insurance to talk to each other; to say that, hey, the gentleman from Michigan (Mr. ROGERS) is applying in Ohio and Michigan to get involved in the insurance industry. He is also applying in Ohio and Illinois for the securities industry. What do we know about him? If we know that the securities industry has barred him, we can also stop him from getting in the insurance industry.

Mr. Speaker, this is simple but extremely important because we are in a time when so many resources are being diverted away from white-collar crime, and rightly so, as our country demands it; yet this is a great opportunity for those who are of a scheming mind, those who will rob, again, those precious resources from so many around the country in a way that is white-collar oriented, sneaky. They can pack up in the middle of the night and be gone and have half of the town's savings are in their pocket.

This is extremely important legislation, Mr. Speaker, and there are some safeguards. I just want to cover them quickly.

The information cannot include, in this system, personally identifiable information on consumers. The consumers are protected in this law.

There is due process notice. The bill creates a new due process right for persons to receive notice when any regulator uses information from the anti-

fraud network to take action against them. This includes a description of the information used, where the information came from, and a reasonable opportunity to respond.

In the privacy sector, Mr. Speaker, to protect information shared between regulators, the bill establishes certain confidentiality and liability provisions of regulatory information.

Insurance regulators were given increased information when performing criminal background checks on financial professionals.

Further safeguards were also added governing the use of such information, as well as strong penalties for the misuse of an individual's criminal records.

Again, I want to say this clearly, because there was some concern as this went through all of the committees that this would not create a new database on this type of information to be held in the custody of the Federal Government.

It simply does not do that. It allows banking regulators to talk to insurance regulators to talk to security regulators so we can all be on the same sheet of music. When we find that bad apple, that scam artist who is going after Grandma, this bill and this ability will allow us to say no and protect those very, very precious savings.

Mr. Speaker, today the House will consider H.R. 1408, the Financial Services Antifraud Network Act, which is legislation that will help safeguard the American public from fraud in the financial services industry.

While the technology needed to create this network may be technical and complex, the purpose of this legislation is not: protecting consumers from financial scams.

As a former special agent for the Federal Bureau of Investigation, I know firsthand that criminals come in all shapes and sizes. Advances in modern technology and the internet have created a new frontier for criminals, allowing them to defraud consumers with a mere click of a computer mouse. Our regulators need the same technological tools. Electronically linking regulators and law enforcement closes a loophole and averts schemes aimed at the American public.

In fact, following the events of September 11 and the efforts to crack worldwide terrorism cells, it is even more important that we give our law enforcement officials and regulators the tools they need to prevent fraud and potential abuses in the United States financial services system.

The need for this common-sense legislation is clear. Currently, there are over 250 Federal and State financial regulators and self-regulating financial organizations, each with their own separate filing systems for antifraud records. Most regulators have already computerized their records and have been working on efforts to coordinate databases within their industries. Recently, some of the larger regulators have begun developing individual information sharing agreements with other regulators across the financial industry.

Unfortunately, effectuating individual coordination among all these regulators would require tens of thousands of separate agreements. At a March 6, 2001 Financial Services Committee hearing, several regulators testified

that federal legislation is necessary to establish confidentiality and liability protections so that financial regulators do not compromise existing legal privileges when sharing supervisory data with other regulators and law enforcement agencies. Also, the Financial Services Roundtable testified that financial fraud costs consumers and the industry about \$100 billion annually, and that greater information sharing will significantly reduce this fraud.

The primary focus of H.R. 1408 is to help the financial regulators coordinate their anti-fraud efforts, particularly by coordinating computer protocols so that their systems can seamlessly communicate and share critical information. It is important to point out that this network will not be a database; instead, it directs the regulators to establish computer connections allowing regulators' existing databases to exchange data.

The regulators themselves will have the initial opportunity to establish the mechanics of the network. H.R. 1408 gives the regulators six months to develop a proposal and two years to implement it. If the regulators fail to do this on their own, H.R. 1408 then creates a Subcommittee with representative regulators from each of the financial industries to make decisions regarding network protocols. This Subcommittee would then have a similar timeframe to plan and establish the network in conjunction with the other regulators, unless they determine that it is impracticable or not cost efficient.

The bill provides critical safeguards to govern information sharing among regulators. The measure prohibits information from being shared through the network unless the regulators determine that adequate privacy and confidentiality safeguards exist. The regulators are only directed to share public final disciplinary and formal enforcement actions taken against financial companies and professionals. Additionally, H.R. 1408 expresses a sense of the Congress that the regulators should consider sharing additional anti-fraud information that is publicly accessible, as well as information from financial reports, affiliations, and applications, which are factual and substantiated and do not include personally identifiable information on consumers. The measure also creates a new due process right for persons to receive notice when any regulator uses information from the anti-fraud network to take an action against them. This includes a description of the type of information used, where the information came from, and a reasonable opportunity to respond.

To protect information shared between regulators, the measure establishes certain limited legal privileges and confidentiality and liability protections for regulatory and supervisory information. H.R. 1408 also allows state insurance regulators to perform FBI fingerprint background checks on insurance applicants to obtain relevant criminal records, subject to certain protections against misuse. The fingerprinting section also clarifies that employers relying on a state insurance regulator's background approval of an insurance agent are not subject to liability for failing to conduct additional background checks.

I believe the Financial Services Antifraud Network Act is carefully crafted bipartisan legislation that is a positive step toward preventing fraud across financial service industry sectors. I would like to thank Financial Services Committee Chairman MIKE OXLEY and Financial Institutions Subcommittee Chairman

SPENCER BACHUS for their leadership on this issue, as well as Committee Ranking Member JOHN LAFALCE and Subcommittee Ranking Member MAXINE WATERS for their willingness to work together on this much-needed legislation. I would also like to thank Judiciary Committee Chairman JIM SENSENBRENNER and Agriculture Committee Chairman LARRY COMBEST, whose committees shared jurisdiction over H.R. 1408.

Finally, many thanks to staff for the hard work and long hours of negotiation that produced the final product. Among House Financial Service Committee staff that deserve special recognition are Robert Gordon, Charles Symington, Tom McCrocklin, Jim Clinger, Bob Foster, and Terry Haines, as well as Matt Strawn from my personal office.

Again, we need to catch financial perpetrators before they strike. I believe H.R. 1408 is a positive step in that direction and urge my colleagues to support its adoption.

Mr. SHOWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I was an original cosponsor of H.R. 1408, the Financial Services Antifraud Network Act of 2001. I rise in support of this adoption today by the full House.

Mr. Speaker, this legislation will enhance cooperation among a vast array of Federal and State financial agencies and self-regulatory organizations, fight against those who defraud the consumer of financial services, and ensure that criminals like Martin Frankel are not able to slip into one financial services industry after being booted out of another.

The bill envisions the creation of a technological link between Federal and State banking, securities, insurance, and other financial regulators so they can easily share the information that is a product of final adjudication in disciplinary proceedings brought against financial companies and professionals.

The bill makes common-sense changes to the securities laws by allowing security regulators to bar persons from the security industry when they have been barred from the banking or insurance industries by appropriate regulators.

Finally, the bill promotes effective regulation of financial companies by providing judicial protection for examination reports under appropriate circumstances.

In the beginning, many Democratic members of the Committee on Financial Services had serious concerns about early versions of the Financial Services Antifraud Network Act of 2001.

Most of these concerns have been substantially diminished through a bipartisan negotiation initiated by the leaders of the Subcommittee on Financial Institutions and Consumer Credit, the gentleman from Alabama (Mr. BACHUS) and the ranking member, the gentlewoman from California (Ms. WATERS), supported by the gentleman from Ohio (Chairman OXLEY) and the ranking member, the gentleman from New York (Mr. LAFALCE).

We on our side raised legitimate questions about the reliability of the information that could be disseminated over the network envisioned by prior versions of the legislation, and the ability of individuals to correct information about themselves that was to be carried out over the network.

These concerns were apparently shared by the administration and the financial services industry. The bill we adopt today goes a long way toward ensuring that unsubstantiated rumors and unfounded allegations will not be broadcast throughout the regulatory community over the antifraud network.

Most significantly, as a result of concerns raised by Democratic members, the compromise bill makes clear that participants in the network are required to give an individual notice of any adverse information obtained from the network and to afford the individual an opportunity to respond to such adverse information.

Many Democratic members raised concerns that prior versions of the legislation needlessly created a new bureaucracy. In response to this concern, the bill provides the financial regulators an opportunity to develop an antifraud network without the assistance of an antifraud committee, which is a potential new mechanism contemplated by the bill. If the regulators do not meet the deadlines for establishing that network, then a fraud subcommittee will be created.

The current version has improved provisions allowing insurance commissioners access to the criminal history data of current and potential insurance professionals, while addressing legitimate privacy concerns raised by insurance agents. These provisions have the potential of providing the insurance commissioners the tools needed to ensure that criminals are not operating within the insurance industry. I urge the adoption of the bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BACHUS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, better coordination of the antifraud efforts of the more than 250 Federal, State, and local agencies that regulate the banking, securities, and insurance industry is long overdue. As my colleagues know, it is often society's most vulnerable members, including our senior citizens, older veterans, and the terminally ill that are the targets of financial scam artists. In fact, they fashion their pitch towards these groups. They also feed on charitable schemes where they misrepresent that they are raising money for charity.

In light of what happened September 11, I think this country has no toleration for those who go out as a financial scam and take advantage of tragedies such as September 11 to raise money with no intention of giving that money to help in the cause. The cost of these outrageous scams is estimated to ex-

ceed \$100 billion annually in this country.

By breaking down the barriers to information exchange that have hampered antifraud initiatives at the national level and among State regulators, H.R. 1408 will go a long way in reducing the risk to average American consumers and investors of losing their life savings due to financial fraud.

As I mentioned at the onset, this legislation was the subject of extensive consideration over a 4-month period by the Subcommittee on Financial Institutions and Consumer Credit. In addition, the Committee on the Judiciary, on which I serve, marked up the legislation after it was reported by the Committee on Financial Services.

The gentleman from Wisconsin (Chairman SENSENBRENNER) is entitled to praise. He was committed to bringing this bill to the floor. It would not be on the floor today if we did not have a commitment and the cooperation of the Committee on the Judiciary. I thank the Committee on the Judiciary and its staff, as well as the staff of the Committee on Financial Services.

What emerged from this cooperative effort, both between committees and between the minority and the majority, is a bill that enhances the capability of regulators to put financial defrauders out of business, while at the same time guaranteeing, as the gentleman from Michigan (Mr. ROGERS) said, due process rights of the accused, and safeguarding the information shared by regulators against improper disclosure or other misuse.

□ 1445

Evidence has emerged in the wake of the September 11 attacks on the World Trade Center and the Pentagon that terrorist cells in this country may be financing their operations in part through financial crimes possibly and specifically involving stolen or false identities.

Facilitating the exchange of information on these activities, shutting down funding for terrorists not only protects American consumers but it may also help regulators and law enforcement authorities identify and apprehend potential terrorists and those who provide them with the financial support they need before further acts of mass murder can be committed against innocent U.S. citizens.

As I mentioned before, at the State, Federal and local level there are more than 20 different agencies charged with regulating banks, security firms, and insurance companies. However, to date, there has been little coordination among them. This lack of coordination was evidenced when recently indicted financier Martin Frankel, after being barred from securities activities, slid over to insurance where he proceeded to bilk the industry of some \$200 million over 8 years.

Frankel's ability to move from securities to insurance and from State to State and ease with which he flaunted

financial regulators may have been deterred. In fact, we had testimony before our committee that it was handicapped because of lack of communication among State regulators and between agencies, both local, State, and Federal.

The antifraud network established by this legislation will help level the playing field between the Martin Frankels of this world and the financial regulators charged with policing fraud and protecting consumers.

We also had testimony, Mr. Speaker, of situations where someone would start a financial or insurance or securities game in the State of Iowa. They would then be barred from the State of Iowa from further activity. The State of Iowa would understand the scheme; they would move against it; they would bring criminal charges against this person or this group of people. What also happens is even though there is a conviction against one person, another person sort of takes up the mantle and they would move to another State. They would start this all over. There would be another round of fraud.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee.

(Mr. OXLEY asked and was given permission to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, let me thank the gentleman from Alabama (Mr. BACHUS) for his good work, the chairman of the subcommittee, along with the gentleman from Michigan (Mr. ROGERS), my good friend, who worked very hard on this issue; and we are finally reaching a point now where we can pass this antifraud legislation.

As I am sure other speakers have said, we had numerous hearings on this issue. All of us are painfully aware of the Martin Frankel situation that resulted in such a terrible outcome for numerous people who invested their savings, only to be defrauded and losing millions, first in the securities industry and then as he artfully moved to the insurance side of thing, the same thing happened.

This bill, of course, was designed to allow for information-sharing among the various regulators and to focus in on people like Martin Frankel who would take advantage of innocent people and their life savings. So this is a wonderful step forward that all of us can be very, very pleased about.

I want to thank the gentleman from Mississippi (Mr. SHOWS) for carrying the bill today for his side of the aisle, also the gentleman from New York (Mr. LAFALCE), the ranking member, and other members of our committee, as well as the Members on the Republican side. This is a truly bipartisan effort. Indeed, without the help also of the Committee on the Judiciary and the gentleman from Wisconsin (Mr. SENSENBRENNER), we would not be able to bring this bill to the floor today.

My congratulations to all those concerned, and we hope and trust that the

other body will take this up with some degree of swiftness so that we can get this legislation signed by the President and on the books, therefore protecting the American consumer from these con artists.

On September 11, 2001, the forces of terror struck the first blow in a cowardly attack against our nation. President Bush has now struck back to defend America, using the might of our armed forces to drive the terrorists back into hiding. But to clear our skies for freedom, we need to defend against not only the planes and bombs of the enemy, but also the reach of their financial empire.

Osama bin Laden and the al Qaeda network survive and thrive on an illegal network of financial crime and corruption. To end terrorism, we need to go beyond the training camps and drive a stake through the heart of their financial network.

The Antifraud Network Act was originally conceived as a consumer protection solution. Our financial regulators currently do not have any system in place for the comprehensive inter-industry oversight of company's financial activities. Instead, government agencies are currently sharing information on financial companies and professionals on an ad-hoc basis without any standards for disclosure or recourse when information is used against someone.

This bill creates consumer protection standards for the sharing of information among agencies, while giving our regulators additional tools to help integrate the regulation of our financial markets. It also significantly increases the information available to each regulator when tracking down fraud and corruption across industries. We are thus not only protecting our American consumers from domestic fraud artists, but also strengthening the ability of our government to track down and break apart the financial network of international terrorists.

Financial fraud costs our nation over 100 billion dollars a year, hurting the lives of millions of Americans and their families. Now with the war on terrorism, the stakes are even higher. The Rogers bill protects consumers and protects our nation. It was passed out by a new unanimous bipartisan vote in both the Financial Services and Judiciary Committee after having been reviewed by hundreds of lawyers from all spectrums of the financial services and law enforcement systems.

Mr. Speaker, I am also including for the RECORD an exchange of correspondence between Chairman COMBEST and myself regarding the jurisdiction of the Committee on Agriculture on this legislation. I thank him for his assistance in bringing this legislation forward and appreciate his cooperation. I also want to thank the Chairman of the Judiciary Committee, Mr. SENSENBRENNER for his ongoing commitment to bring this legislation to the floor. Finally, I want to thank the members of the Committee on Financial Services, including Chairman BACHUS, Ranking Member LAFALCE, and Subcommittee Ranking Member WATERS for their cooperation and hard work on this legislation. And of course, much of the credit for this goes to a Committee freshman and FBI alum, MIKE ROGERS from Michigan.

It is the right bill for the right time to protect consumers and stop terrorism. I urge your support for Mr. ROGERS' Antifraud legislation.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON AGRICULTURE,  
Washington, DC, July 31, 2001.

Hon. MICHAEL G. OXLEY,  
Chairman, Committee on Financial Services,  
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: I understand that the Committee on Financial Services recently ordered reported H.R. 1408, the Financial Services Antifraud Network Act of 2001. As you know, the legislation contains provisions which fall within the jurisdiction of the Committee on Agriculture pursuant to clause 1(a) of Rule X of the Rules of the House of Representatives.

Because of your willingness to consult with the Committee on Agriculture regarding this matter and the need to move this legislation expeditiously, I will waive consideration of the bill by the Committee on Agriculture. By agreeing to waive its consideration of the bill, the Agriculture Committee does not waive its jurisdiction over H.R. 1408. In addition, the Committee reserves its authority to seek conferees on any provisions of the bill that are within the Agriculture Committee's jurisdiction during any House-Senate conference that may be convened on this legislation.

I request that you include this letter and your response as part of your committee's report on the bill and the Congressional Record during consideration of the legislation on the House floor.

Thank you for your attention to these matters.

Sincerely,

LARRY COMBEST,  
Chairman.

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FINANCIAL SERVICES,  
Washington, DC, August 1, 2001.

Hon. LARRY COMBEST,  
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN COMBEST: Thank you for your letter regarding your Committee's jurisdictional interest in H.R. 1408, the Financial Services Antifraud Network Act of 2001.

I acknowledge your committee's jurisdictional interest in this legislation and appreciate your cooperation in moving the bill to the House floor expeditiously. I agree that your decision to forego further action on the bill will not prejudice the Committee on Agriculture with respect to its jurisdictional prerogatives on this or similar legislation. I will include a copy of your letter and this response in the Committee's report on the bill and the Congressional Record when the legislation is considered by the House. Additionally, I will support any request you might make for conferees, should a conference be necessary.

Thank you again for your cooperation

Sincerely,

MICHAEL G. OXLEY,  
Chairman.

Mr. BACHUS. Mr. Speaker, I yield myself such time as I may consume.

I do not know that we have any other speakers wishing to be heard. I want to again second what the gentleman from Ohio (Mr. OXLEY), the chairman of the full committee, said.

The cooperation that we have received from the gentleman from Mississippi (Mr. SHOWS), from the gentleman from New York (Mr. LAFALCE), from the gentlewoman from California (Ms. WATERS) has been tremendous. The gentleman from Mississippi (Mr. SHOWS) was an original cosponsor of

this legislation. This truly is a bipartisan, or nonpartisan, effort; and I think it shows what this Congress can do when they put aside their petty differences on many occasions and work for the common good of the people, and they have done that.

Ms. WATERS. Mr. Speaker, I am very pleased to proceed with floor consideration of H.R. 1408, the Financial Services Antifraud Network Act of 2001. When we initially considered marking up this legislation in the Financial Institutions subcommittee, there were a number of problems with the structure and the content of that version. I want to thank my colleague, Mr. BACHUS for his willingness to postpone that markup so that we could work together to improve this bill. A number of improvements have been made to this legislation since it was introduced. The structure for information sharing among the regulators has been greatly simplified. The categories of information to be shared among the regulators have been narrowed, and safeguards have been put in place to protect individuals. In addition, certain due process protections have been added to the bill, which grant individuals the right to receive notice and respond when information from the network is used to take action against them. Finally, this bill provides insurance regulators with increased access to information when conducting criminal background checks on financial professionals. Additional safeguards are provided governing the use of this information.

I want to thank my colleagues Chairman BACHUS, Congressman ROGERS, Congressman MOORE, Congressman GONZALEZ, Ranking Member LAFALCE and Chairman OXLEY as well as their staffs for working cooperatively to improve this legislation. I am pleased that the process went so well and has resulted in a better bill, and that agreement has been reached on the final outstanding issue regarding financial regulators' access to confidential supervisory information. This issue is not a partisan one. We all want to combat fraud and protect consumers. In light of the events of September 11, it has become even more crucial to ensure that criminals do not evade detection merely by varying their methodology.

I think that once we began working together, in a bipartisan manner, on this legislation, we realized that common ground was not an elusive goal. I would hope that we can continue to work together across the aisle on other issues of mutual concern as this Congress continues. Once again, I thank my colleagues for their hard work.

Mr. BACHUS. Mr. Speaker, there being no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Alabama (Mr. BACHUS) that the House suspend the rules and pass the bill, H.R. 1408, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BACHUS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the

Chair's prior announcement, further proceedings on this motion will be postponed.

## RADIO FREE AFGHANISTAN ACT OF 2001

Mr. ROYCE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2998) to authorize the establishment of Radio Free Afghanistan, as amended.

The Clerk read as follows:

H.R. 2998

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Afghanistan Act of 2001".

### SEC. 2. ESTABLISHMENT OF RADIO FREE AFGHANISTAN.

(a) ESTABLISHMENT.—The Broadcasting Board of Governors is authorized to make grants for surrogate radio broadcasting by RFE/RL, Incorporated (also known as Radio Free Europe/Radio Liberty) to the people of Afghanistan in languages spoken in Afghanistan, such broadcasts to be designated "Radio Free Afghanistan".

(b) SUBMISSION OF PLAN TO BROADCASTING BOARD OF GOVERNORS.—Not later than 15 days after the date of the enactment of this Act, RFE/RL, Incorporated, shall submit to the Broadcasting Board of Governors a detailed plan for the establishment of the surrogate radio broadcasting described in subsection (a).

#### (c) AUTHORIZATION OF APPROPRIATIONS.—

(1) INTERNATIONAL BROADCASTING OPERATIONS.—In addition to such sums as are otherwise authorized to be appropriated for "International Broadcasting Operations", there are authorized to be appropriated for "International Broadcasting Operations" \$9,500,000 for the fiscal year 2002 and \$8,000,000 for the fiscal year 2003 for broadcasting to Afghanistan described in subsection (a).

(2) BROADCASTING CAPITAL IMPROVEMENTS.—In addition to such sums as are otherwise authorized to be appropriated for "Broadcasting Capital Improvements", there are authorized to be appropriated for "Broadcasting Capital Improvements" \$10,000,000 for the fiscal year 2002 for transmitting broadcasts into Afghanistan.

### SEC. 3. REPEAL OF BAN ON UNITED STATES TRANSMITTER IN KUWAIT.

The Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended—

- (1) by striking section 226; and
- (2) by striking the item relating to section 226 in the table of contents.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROYCE) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROYCE).

#### GENERAL LEAVE

Mr. ROYCE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROYCE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. HYDE) for his leadership on the Committee on International Relations where this bill, the Radio Free Afghanistan Act, passed by voice vote last Thursday. I would also like to acknowledge the work of my co-author, the gentleman from California (Mr. BERMAN), who is traveling back from business in the district and could not be here yet today.

Mr. Speaker, the primary source of current news and information for the people of Afghanistan is the radio. Eighty-five percent of Afghans get their information from the radio. They do not have television there. That was banned under the Islamic law that the Taliban enforces. All of the televisions were destroyed. So Afghans saw no footage of the devastation at the World Trade Center. They had not had the opportunity to see what happened at our Pentagon.

Throughout that country on September 11 people held up small transistor radios to their ears to listen to news accounts. However, the news accounts they heard are far different from those that we heard in this country. Throughout the region, they heard that the attacks on the World Trade Center were the work of the Israel Government, the work of the Israelis with help from the Indian Government with the United States trying to cover this up. Why? Why did they believe this? Well, they were told by al-Qaeda and others that there were 4,000 Jewish Americans who did not go to work that day because they were tipped off; there was a plot to blame all this on Osama bin Laden.

We know that, in fact, is a lie; but they do not have access to that information. Because long before the terrorist attacks of September 11, bin Laden sympathizers waged a psychological war for the minds of Afghans. They shrewdly used radio to spread hatred of the United States, hatred of democracy, hatred of Israel, and hatred of Muslims who rejected their hate.

I believe that the establishment of a Radio Free Afghanistan by Radio Free Europe is essential to winning the information war. Radio Free Europe, Radio Liberty does one thing very well. It engages in surrogate broadcasting, and they will operate as if Afghanistan had a free and vibrant press. They will counter these lies.

The Taliban and the terrorists they are harboring use propaganda, and they use censorship to maintain power. They must be countered.

As William Safire points out in last Thursday's New York Times, he says, "That message that is sent should be the Taliban are corrupting the Koran, the Taliban and their terrorist guest bin Laden are the cause of Afghan casualties. As soon as the fanatic Saudi outsiders surrender then peace and food and jobs will come to the country."